

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 13649, of Miller, Loewinger & Associates, as amended, pursuant to Sub-section 8207.2 and Paragraph 8207.11 of the Zoning Regulations, for a special exception under Paragraph 4104.44 to use all floors of the subject premises as law offices and for a variance from the prohibition against allowing required parking spaces to measure less than nine feet in width and nineteen feet in length (Sub-section 7204.1) in an HR/SP-2 District at the premises 473 H Street, N.W., (Square 517, Lot 835).

HEARING DATE: January 20, 1982

DECISION DATE: January 20, 19782 (Bench Decision)

FINDINGS OF FACT:

1. The subject application was considered as a preliminary matter at the public hearing on January 20, 1982. Section 3.33 of the Supplemental Rules of Practice and Procedure before the BZA requires that a notice of the public hearing be posted on the property at least ten days in advance of the hearing. The property was posted for only nine days. The applicant's architect neglected to pick-up the notice from the Board before Friday, January 8, 1982, and the earliest he could next obtain the notice was Monday morning, January 11, 1982. The affidavit filed in the record reflects that the notice was posted at 10:00 A.M. on January 11, 1982. The Chairman ruled to waive the ten-day requirement and hear the case.

2. As originally filed and advertised for hearing, the application requested a variance from Sub-section 7202.1 regarding the number of required off-street parking spaces. At the public hearing, the applicant amended the application so as to provide four off-street parking spaces at the rear. In providing those spaces, the applicant requires a variance from the size of parking space requirements contained in Sub-section 7204.1.

3. The subject property is located in an SP-2 District on the north side of H Street between 4th and 5th Streets, N.W.

4. The subject lot is seventeen feet wide and 100 feet deep, and has an area of 1,700 square feet. The lot is improved with a three story plus basement brick row structure. The building is presently vacant, and has been

so for at least four years. The last use of the property was as a rooming house.

5. The applicant proposes to use the subject premises as law offices. The applicant presently owns and occupies as law offices the adjacent building to the east at 471 H Street. The proposed occupancy of the subject building would provide additional space for the existing law firm and would allow for a small expansion of the firm.

6. To the east of the law offices is the Judiciary House, a high-rise apartment building for the elderly. To the north of the subject site is a twenty foot alley, followed by a parking lot. That parking lot is proposed to be improved with a high-rise mixed use project containing offices and hotels, which is the subject of a pending planned unit development application before the Zoning Commission. West of the subject site is a three story building proposed to be used as offices by the D.C. Lung Association, followed by the Gospel Mission. To the south across H Street is the General Accounting Office. The general area also includes other office and commercial uses, as well as many parking lots. There are few residential uses in the area.

7. The proposed use is in harmony with existing uses in the area.

8. The applicant proposes to retain the basic exterior appearance of the building, to restore the facade and to renovate the interior for office use. The building is of approximately the same height as the adjoining buildings on either side, and is well below the maximum permitted height of ninety feet.

9. The building has a gross floor area of slightly over 3,800 square feet, or an FAR of 2.24. The building is well below the maximum permitted non-residential FAR of 3.5 in an SP-2 District.

10. The height, bulk and design of the building is in harmony with existing structures on neighboring property.

11. Since the proposed use represents only a minimal expansion of the existing adjacent law office use, little additional traffic will be generated. The site is in close proximity to the Center Leg Freeway and Massachusetts Avenue, a major traffic carrying street. There is also good bus service along H Street and Metrorail stations nearby at Judiciary Square and Gallery Place.

12. The applicant is required to provide one off-street parking space. The applicant proposes to provide four parking spaces in the rear yard. Each space would be 8.5

feet wide by 18.45 feet long. The Regulations require parking spaces to be at least nine feet wide by nineteen feet long. The applicant thus requests a variance of 0.5 feet in width and 0.55 feet in length. The size of the spaces is constrained by the width of the lot and the depth of the rear yard.

13. The applicant could provide one full-sized legal parking space in the rear. This would reduce the remaining three spaces to sizes of unworkable dimensions. Given the very small reduction requested, the provision of four spaces is a better alternative.

14. The Office of Planning and Development, by memorandum dated January 12, 1982, and by testimony at the public hearing, recommended that the application be granted. The OPD reported that the structure is characteristic of several buildings in the neighborhood, and that the law office use as proposed will be in harmony with the uses on neighboring property. The OPD was of the opinion that the proposal will not create dangerous or objectionable traffic conditions. The Board concurs with the findings of the OPD.

15. The D.C. Lung Association, owner of the adjoining property to the west, submitted a letter to the record in support of the application. The Association was of the opinion that the planned upgrading and usage of this building will enhance the area. The Board agrees.

16. There was no report from Advisory Neighborhood Commission 2C. Two single member district commissioners supported the application on the grounds it will enhance the neighborhood.

17. There was no opposition to the application at the hearing or in the record.

CONCLUSIONS OF LAW AND OPINIONS:

Based on the findings of fact and the evidence of record, the Board concludes that the applicant is seeking a special exception and a variance. In order to be granted, the requested exception, the applicant must demonstrate that it has complied with the requirements of Paragraph 4101.44 and Sub-section 8207.2 of the Zoning Regulations. The Board concludes that the applicant has so complied. The use, height, bulk and design of the property are in harmony with the existing uses and structures on neighboring properties. No objectionable traffic conditions will occur. The Board further concludes that the special exception can be granted as in harmony with the general purpose and intent of the Zoning Regulations and maps and will not tend to affect adversely the use of neighboring property in accordance with said regulations and maps.

As to the variance, the Board concludes that the requested variance is an area variance, the granting of which requires the showing of an exceptional or extraordinary condition of the property which creates a practical difficulty for the owner. The Board concludes that the width of the lot and the depth of the existing rear yard are exceptional conditions. The Board concludes that strict application of the Regulations would create a practical difficulty, in that only one space could be provided whereas four is a better practical solution. The Board notes that the requested variance are minimal, amounting to approximately six inches. The Board concludes that the requested relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and Maps. It is therefore ORDERED that the application as amended is GRANTED.

VOTE: 5-0 (John G. Parsons, Connie Fortune, Douglas J. Patton, William F. McIntosh and Charles R. Norris to GRANT).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY: Steven E. Sher
STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: APR 14 1982

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF LICENSES, INVESTIGATIONS AND INSPECTIONS.